

ARKANSAS SUPREME COURT

No. 08-758

GEORGE AYDELOTTE
Appellant

v.

STATE OF ARKANSAS
Appellee

Opinion Delivered October 30, 2008

PRO SE MOTION FOR EXTENSION
OF BRIEF TIME [CIRCUIT COURT OF
HOT SPRING COUNTY, CV 2008-88,
HON. CHRIS E. WILLIAMS, JUDGE]

APPEAL DISMISSED; MOTION
MOOT.

PER CURIAM

In 2008, appellant George Aydelotte filed a petition for writ of habeas corpus in the county in which he was incarcerated. In the petition, appellant alleged that the State of Mississippi had violated his right to speedy trial on certain criminal charges filed against him in that state. The trial court denied the petition, and appellant has lodged an appeal here from the order.

Now before us is appellant's pro se motion for an extension of time to file his brief-in-chief. After filing the motion, appellant tendered his brief to this court. The appeal is dismissed and the motion is moot. An appeal from an order that denied a petition for postconviction relief will not be permitted to go forward where it is clear that the appellant could not prevail. *Lukach v. State*, 369 Ark. 475, 255 S.W.3d 832 (2007) (per curiam).

Unless a petitioner can demonstrate that the trial court lacked jurisdiction or that the commitment was invalid on its face, there is no basis for finding that a writ of habeas corpus should issue. *Friend v. Norris*, 364 Ark. 315, 219 S.W.3d 123 (2005) (per curiam). The petitioner must plead either facial invalidity or lack of jurisdiction and make a "showing, by affidavit or other

evidence, [of] probable cause to believe” that he is illegally detained. Ark. Code Ann. § 16-112-103(a)(1) (Repl. 2006); *Mackey v. Lockhart*, 307 Ark. 321, 819 S.W.2d 702 (1991).

In the petition filed in the circuit court below, appellant made no allegations regarding his Arkansas convictions and failed to establish that he was entitled to habeas relief as to sentences that were imposed in Arkansas. His petition addressed only criminal charges in Tunica County, Mississippi, and the circuit court was without jurisdiction to address any criminal matters pending in another state.

Appeal dismissed; motion moot.

Danielson, J., not participating.